

AMENDED IN ASSEMBLY MARCH 22, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2483

Introduced by Assembly Member Coto
(Coauthors: Assembly Members Beall, Caballero, Fong, and
Torrico)
(Coauthor: Senator Maldonado)

February 19, 2010

An act to repeal the Santa Clara Valley Water District Act (Chapter 1404 of the Statutes of 1951) and to add Division 50 (commencing with Section 100000) to the Water Code, relating to the Santa Clara Valley Water District.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Coto. Santa Clara Valley Water District.

(1) The Santa Clara Valley Water District Act establishes the Santa Clara Valley Water District and specifies its powers and purposes relating to water supply and flood management. Under the act, a person who violates an ordinance of the district is guilty of a misdemeanor.

This bill would repeal that act and would enact a substantially revised codified version of that act as the Santa Clara Valley Water District Act (new act). The new act would establish the Santa Clara Valley Water District and specify its powers and purposes relating to integrated management of water supply, watershed stewardship, groundwater management, and flood management. This bill, by revising the responsibilities of the district, would impose a state-mandated local program. A person who violates a district ordinance that implements the authority of the district, as revised, would be guilty of a

misdemeanor. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Santa Clara Valley Water District.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In 1951 the Legislature created what is now the Santa Clara
4 Valley Water District to meet the water supply needs of Santa
5 Clara County.

6 (b) Over the ensuing years the Santa Clara Valley Water District
7 Act has evolved as the district has merged with other entities and
8 has taken on additional missions, including flood protection and
9 watershed stewardship.

10 (c) The water resource challenges facing Santa Clara County
11 today require an integrated comprehensive water resources
12 management approach to adaptively manage through changing
13 conditions and an uncertain future.

14 (d) There is a need to revise the Santa Clara Valley Water
15 District Act to strengthen the district's ability to provide local
16 control of water resources within the county; to make the language
17 clear and accessible to the public and policy makers; to add
18 accountability and transparency; and both to reflect current
19 circumstances and to provide the flexibility necessary to address
20 future challenges.

21 SEC. 2. The Santa Clara Valley Water District Act (Chapter
22 1404 of the Statutes of 1951) is repealed.

23 SEC. 3. Division 50 (commencing with Section 100000) is
24 added to the Water Code, to read:

DIVISION 50. SPECIAL WATER DISTRICT ACTS

PART 1. SANTA CLARA VALLEY WATER DISTRICT ACT

CHAPTER 1. GENERAL PROVISIONS

100000. This part shall be known, and may be cited, as the Santa Clara Valley Water District Act.

100001. A special district is hereby created for water and resource management to be called the Santa Clara Valley Water District. The jurisdiction of the district consists of all the territory of the County of Santa Clara lying within the exterior boundaries of the county. As used in this part, “district” means the Santa Clara Valley Water District.

100002. (a) The Legislature finds and declares all of the following:

(1) The State of California and its people have a primary interest in securing to the inhabitants and owners of the lands and improvements within Santa Clara County the greatest possible use, conservation, management, and protection of the waters within the county for the common benefit of water users within the district.

(2) The Santa Clara Valley Water District has provided needed public services, facilities, and supplies to residents of Santa Clara County since its creation by the Legislature pursuant to Chapter 1405 of the Statutes of 1951, and to most efficiently and effectively use, conserve, manage, and protect the waters of Santa Clara County for the public good, the modifications made in the act adding this part are warranted.

(3) This part is intended to increase accountability and transparency, strengthen environmental commitments, improve water quality protection and sustainability, provide protection from floodwaters, and enhance water supply and water supply reliability.

(4) Comprehensive, integrated water resource management contributes to and enhances the well-being and the social, economic, and ecosystem sustainability of Santa Clara County.

(5) An integrated approach to providing effective flood protection measures, managing a sustainable water supply, preventing land subsidence, and supporting healthy watersheds is increasingly critical to provide for the community now and into the future.

(6) Collaboration with federal, state, regional, and local agencies, water retailers and the community is required to meet these water resource management goals.

(b) Through this part, the Legislature intends to authorize the district to utilize an integrated water management approach to provide a broad variety of benefits to Santa Clara County, including meeting existing and future water demands; protecting and improving the quality of water sources and supplies; providing flexibility to deal with extreme hydrological events, such as droughts and floods; adaptation to and mitigation in response to climate change; and watershed stewardship to help sustain natural resources.

(c) This part shall be liberally construed to carry out its purposes and intents.

CHAPTER 2. DEFINITIONS

100020. Unless the context otherwise requires, the definitions in this part govern the construction of this part.

100021. “Abandoned well” means any well that is one of the following:

(a) A well, other than a monitoring well, that has been out of service for one year or more.

(b) A monitoring well from which no measurement or sample has been taken for a period of three years.

(c) A well that is in a state of disrepair such that it cannot feasibly be made operational for its intended purpose.

(d) A test hole or exploratory boring 24 hours after construction and testing work has been completed.

(e) A cathodic protection well that is no longer functional for its intended purpose.

(f) Any boring that cannot be satisfactorily completed as a well.

100022. “Agricultural water” means water primarily used in the commercial production of agricultural crops or livestock.

100023. “Board of directors” or “board” means the board of directors of the district.

100024. “Chief executive officer” means the individual appointed by the board to manage the district, and may be designated as General Manager or CEO.

1 100025. “Conjunctive use” means the coordinated and planned
2 management of both surface water and groundwater resources to
3 optimize the availability, reliability, and quality of water supplies
4 and to meet other overall water resource management objectives.
5 Water is stored in a groundwater basin for later, planned use by
6 intentionally recharging the basin with imported and local water
7 supplies during periods of surplus water supply.

8 100026. “Contamination” means the degradation of surface
9 water or groundwater or the impairment of the beneficial uses of
10 such waters due to physical, chemical, biological, or radiological
11 substances.

12 100027. “County” means Santa Clara County.

13 100028. “Designated floodway” means the channel of a stream
14 and that portion of the adjoining floodplain required to reasonably
15 provide for the construction of a project for passage of the design
16 flood, including the lands necessary for construction of project
17 levees.

18 100029. “Director” means a member of the board of directors.

19 100030. “District” means the Santa Clara Valley Water District.

20 100031. “Extraction” means the act of obtaining groundwater
21 by pumping or other controlled means.

22 100032. “Fiscal year” means July 1 of one calendar year to
23 June 30 of the following calendar year.

24 100033. “Floodplain” means low lying areas bordering a stream
25 that are inundated periodically by its waters.

26 100034. “Groundwater” means all water beneath the earth’s
27 surface whether or not flowing through known and definite
28 channels.

29 100035. “Habitat” means the specific area or environment in
30 which a particular type of plant or animal lives. To be complete,
31 an organism’s habitat must provide all of the basic requirements
32 of life for that organism.

33 100036. “Integrated water management” means a holistic
34 approach to flood, water resource, and environmental activities.

35 100037. “Nonagricultural water” means water used for any
36 beneficial use other than agricultural use, including municipal,
37 industrial, landscape irrigation, and domestic uses.

38 100038. “Owner” means the person or persons owning any
39 water-producing facility or any interest therein other than a lien
40 to secure the payment of a debt or other obligation.

1 100039. “Operator” means the person operating a
2 water-producing facility. The owner of such a facility shall be
3 conclusively presumed to be the operator unless satisfactory
4 showing is made to the district that the water-producing facility
5 actually is operated by some other person.

6 100040. “Person” includes federal, state, and local public
7 agencies, private corporations, partnerships, limited liability
8 companies, individuals, or groups of individuals, whether legally
9 organized or not.

10 100041. (a) “Production” or “producing” means the extraction
11 or extracting of groundwater, by pumping or any other method,
12 from shafts, tunnels, wells (including, but not limited to, abandoned
13 oil wells), excavations or other sources of groundwater, for
14 domestic, municipal, irrigation, industrial, or other beneficial use.

15 (b) “Production” or “producing” excludes any of the following:

16 (1) The extraction or extracting of groundwater incidentally
17 produced in the construction or reconstruction of a well.

18 (2) Water incidentally produced with oil or gas in the production
19 thereof.

20 (3) Water incidentally produced in a mining or excavating
21 operation.

22 (4) Water incidentally produced in the construction of a tunnel.

23 (5) Water produced as a result of dewatering activities to avoid
24 subsurface flooding.

25 (c) If the groundwater extracted in any one of the circumstances
26 listed in subdivision (b) is used or sold by the producer for any
27 domestic, municipal, irrigation, industrial, or other beneficial
28 purpose, the exclusion from the definition of “production” or
29 “producing” shall not apply.

30 100042. “Recycled water” means wastewater that is suitable
31 for beneficial use as a result of treatment.

32 100043. “Stewardship” means the careful and responsible
33 management of the environment and natural resources for the
34 current and future benefit of the greater community.

35 100043.5. “Surface water” means water above the natural
36 surface of the ground, including streams, lakes, and reservoirs.

37 100044. “Water conservation” means technological or
38 behavioral improvements in indoor and outdoor residential,
39 commercial, industrial, institutional, and agricultural water use

1 that lower demand, lower per capita water use, and result in benefits
2 to water supply, water quality, and the environment.

3 100045. “Water-producing facility” means any device or
4 method, mechanical or otherwise, for the production of water from
5 the groundwater supplies within the district or a zone of the district.

6 100046. “Water production statement” means the certified
7 statement that is submitted by the owner or operator of a
8 water-producing facility to the district that describes the production
9 of groundwater from that facility during a specified period.

10 100047. “Watershed” means a region or area bounded
11 peripherally by a divide and draining immediately to a particular
12 watercourse or body of water.

13 100048. “Well” means any artificial excavation constructed
14 by any method for the purpose of extracting water from, or
15 injecting water into, the underground; monitoring or observing
16 groundwater; obtaining subsurface data; or installing equipment
17 for electronically protecting metallic equipment (cathodic
18 protection).

19 100049. “Zone” or “zones” means an area within the district,
20 as determined by the board, that will benefit from planning, studies,
21 management programs, or projects undertaken by the district, in
22 a manner unique to that area.

23
24 CHAPTER 3. PURPOSES AND POWERS
25

26 100050. The purpose of this part is to authorize the district to
27 provide integrated comprehensive protection from flooding,
28 comprehensive water resource management for all beneficial uses,
29 and environmental water resources stewardship. In carrying out
30 its mission, the district may do any of the following:

31 (a) Protect the people, property, and environmental resources
32 of the county from the damaging effects of floodwater and
33 stormwater, including tidal floodwater and the floodwater and
34 stormwater of streams that have their sources outside the district,
35 but flow into the district.

36 (b) Manage and maintain a flood protection system of levees,
37 channels, drains, debris basins, dams, and other improvements to
38 protect lives and property.

1 (c) Provide the inhabitants of the county with a reliable supply
2 of water of suitable quality sufficient to meet current and long-term
3 needs.

4 (d) Protect, augment, and manage the quantity and quality of
5 the water supplies of the district.

6 (e) Prevent the waste or diminution of the water supply in the
7 district.

8 (f) Preserve open space in the county and collaborate with
9 county parks and other entities to provide access for trails, open
10 space, recreational use, or environmental protection on district
11 property.

12 (g) Protect against land subsidence.

13 (h) Plan for and respond to climate change impacts.

14 (i) Encourage the integration of energy and water policies to
15 increase renewable energy production, to promote water use
16 efficiency, and to reduce environmental impacts.

17 (j) Enhance, protect, or restore the health of streams, riparian
18 corridors, baylands ecosystems, natural resources, and habitats.

19 (k) Engage in cooperative regional or statewide efforts to carry
20 out its authority.

21 100051. The district is hereby declared to be a body corporate
22 and politic and has the powers expressly granted by this part,
23 together with other powers reasonably implied from those express
24 powers, and powers necessary or proper to carry out fully the
25 provisions of this part including:

26 (a) All of the following with regard to procedural matters:

27 (1) To have perpetual succession.

28 (2) To sue and be sued in the name of the district in all actions
29 and proceedings in all courts and tribunals of competent
30 jurisdiction.

31 (3) To adopt and make changes to a seal.

32 (4) To employ labor and contract for services consistent with
33 applicable Public Contract Code provisions.

34 (5) To enter into contracts and other instruments necessary or
35 convenient to the exercise of powers under this part.

36 (6) To have the power and right to disseminate information
37 concerning the rights, properties, activities, plans, and proposals
38 of the district.

39 (7) To adopt, enact, and enforce ordinances to carry out the
40 purposes and powers of this part.

1 (8) To adopt and carry out any definite plan or system for
2 accomplishing, facilitating, or financing any work that may
3 lawfully be accomplished by the district, and to enforce that plan
4 or system by resolution or ordinance.

5 (9) To cooperate with, enter into, and to do any acts necessary
6 for the proper performance of any agreement with the state, the
7 United States, any state, city, county, district of any kind, public
8 or private corporation, association, firm, or individual, for the
9 ownership, joint acquisition, leasing, disposition, use, management,
10 construction, installation, extension, maintenance, repair, or
11 operation of any rights, works, or other property of a kind that
12 might lawfully be acquired or owned by the district, or for the
13 lawful performance of any power or purpose of the district provided
14 for in this part.

15 (10) To carry on technical and other investigations of any kind
16 necessary or convenient for the accomplishment of water resource
17 management authorized by this part. Through inspection warrants,
18 the district has the right of access through its authorized
19 representatives to all properties within the district that impact or
20 relate to groundwater, watercourses, or streams flowing in or into
21 the district.

22 (b) All of the following with regard to acquisition of property,
23 eminent domain, and construction of work:

24 (1) To acquire by grant, purchase, lease, gift, devise, contract,
25 or otherwise; and to hold, use, enjoy, sell, let, or dispose of water,
26 water rights, real and personal property of every kind, including
27 lands, structures, buildings, rights-of-way, easements, and
28 privileges.

29 (2) To exercise the power of eminent domain, either within or
30 outside the district, in connection with the purposes and activities
31 authorized by this part.

32 (3) To divert any surface water or extract any groundwater, to
33 the detriment of a person with legal interest in that water, only
34 after the proper exercise of the power of eminent domain.

35 (4) To construct, maintain, alter, operate, repair, or remove any
36 work or improvement, within or outside the district, to carry out
37 any of the purposes of this part.

38 (5) To acquire, construct, maintain, operate, and install
39 landscaping or recreational facilities in connection with any dam,

1 reservoir, percolation pond, flood protection facility, building, or
2 other works owned or controlled by the district.

3 (6) To acquire, construct, maintain, and operate facilities for
4 the percolation of water.

5 (7) To acquire, construct, maintain, operate, and install, lease,
6 and control facilities for the generation, transmission, distribution,
7 sale, exchange, and lease of electric power.

8 (8) To participate in the market of credits or other benefits
9 related to reduction of environmental impacts or improved
10 integrated resource management.

11 (9) To enter upon any land to make photographs, studies,
12 surveys, examinations, or appraisals related to acquisition or use
13 of real property, and to locate the necessary works of improvement
14 and the lines for channels, conduits, canals, pipelines, wells,
15 water-producing facilities, roadways, and other rights-of-way.

16 (10) To acquire and to hold the capital stock of any mutual water
17 company or corporation, domestic or foreign, owning water or
18 water rights, canals, waterworks, franchises, concessions, or rights,
19 when the ownership of stock is necessary to secure a water supply
20 required by the district, or any part thereof, upon the condition that
21 when holding stock, the district is entitled to all the rights, powers,
22 and privileges, and is subject to all the obligations and liabilities
23 conferred or imposed by law upon other holders of stock in the
24 same company.

25 (11) To cooperate with, enter into, and to do any acts necessary
26 for the proper performance of any agreement with the state, the
27 United States, any state, city, county, district of any kind, public
28 or private corporation, association, firm, or individual, for the
29 ownership, joint acquisition, leasing, disposition, use, management,
30 construction, installation, extension, maintenance, repair, or
31 operation of any rights, works, or other property of a kind that
32 might lawfully be acquired or owned by the district, or for the
33 lawful performance of any power or purpose of the district provided
34 for in this part.

35 (c) All of the following powers with regard to acquisition,
36 storage, treatment, and distribution of water:

37 (1) To appropriate and acquire water and water rights, and to
38 import water into the district.

1 (2) To purchase, convey, store, distribute, exchange, or sell
2 water from any source for purposes of managing the water supplies
3 of the district.

4 (3) To store water in surface or underground reservoirs within
5 or outside the district for the common benefit of the district or of
6 any zones.

7 (4) To manage and replenish the groundwater basins within the
8 district.

9 (5) To take actions, including imposing restrictions or requiring
10 inspections, to prevent damage to water supply structures or water
11 quality from any cause, including, but not limited to, invasive
12 species, harmful organisms, or harmful substances.

13 (6) To conserve, treat, extract, inject, reclaim, recycle, distribute,
14 store, protect, and manage water for present and future use within
15 the district.

16 (7) To take actions in order that sufficient water of suitable
17 quality is available within the district to meet current and long-term
18 water reliability needs, as well as short-term demands during
19 critically dry periods, regulatory shortages, emergencies, or other
20 interruptions in normal supply for all beneficial water uses.

21 (8) To distribute, sell, or otherwise dispose of, outside the
22 district, any water not needed for beneficial uses within the district.

23 (9) To take any action necessary or appropriate to litigate or
24 resolve water rights, water quality, or water use issues, within or
25 outside the district, including, but not limited to, enforcement
26 actions to prevent the wasteful use of water, harm to water, or to
27 natural resources within the district.

28 (10) To enact regulations affirmatively managing the watersheds
29 within the district, to protect the paramount right of the district to
30 manage the water supplies of the district for the benefit of its
31 inhabitants, including regulation of existing and proposed wells,
32 exportation and pricing of water from the district, or from a zone.

33 (d) All of the following powers with regard to protection from
34 flooding:

35 (1) To manage the flood and stormwaters of the district,
36 including tidal floodwaters, and the flood and stormwaters of
37 streams that have sources outside of the district, but that flow into
38 the district, and to conserve the waters for beneficial purposes.

1 (2) To protect the watercourses, watersheds, public highways,
2 health, safety, and property in the district, and streams flowing
3 into the district, from damage caused by those flood or stormwaters.

4 (3) To establish designated floodways in accordance with the
5 Cobey-Alquist Flood Plain Management Act (Chapter 4
6 (commencing with Section 8400) of Part 2 of Division 5).

7 (4) To construct, manage, and maintain all district flood
8 protection facilities, including levees, modified channels, bypasses,
9 culverts, floodwalls, detention basins, diversion structures, all
10 appurtenances and other structures, as well as to utilize
11 nonstructural methods, for the purpose of containing or conveying
12 floodwaters in accordance with this part.

13 (5) To enact regulations to protect flood protection facilities
14 from activities that could endanger the public health and safety,
15 or that diminish their ability to achieve their purpose.

16 (e) All of the following powers with regard to protection of
17 water quality:

18 (1) To conduct investigations of the quality of surface water or
19 groundwater within the district to determine if water is being
20 degraded, contaminated, or polluted.

21 (2) To expend funds to perform any cleanup, containment,
22 abatement, prevention, remedial work, public notification, or
23 educational public outreach which, in the determination of the
24 board, is required under regulatory authority of any state or federal
25 agency or by the magnitude of the endeavor, or the urgent need
26 for prompt action to prevent, abate, or contain any threatened or
27 existing contamination of or pollution to the surface water or
28 groundwater of the district. This action may be taken in addition
29 to work by the contaminator or polluter, or if the contaminator or
30 polluter fails to take action. The district may perform the work,
31 itself, by contract, or in cooperation with any other governmental
32 entity.

33 (3) To hold the contaminator or polluter liable for costs if,
34 pursuant to paragraph (2), the district causes contamination or
35 pollution to be cleaned up or contained, the effects abated, or other
36 necessary remedial action is taken to address actual or threatened
37 contamination or pollution. The person or entity causing or
38 threatening to cause that contamination or pollution is liable to the
39 district to the extent of the reasonable costs actually incurred,
40 including direct staff response costs and overhead. The amount of

1 the costs, together with court costs and reasonable attorney's fees
2 are recoverable in a civil action by the district or other means. In
3 such an action, the necessity for the cleanup, containment,
4 abatement, remedial work, public notification, or educational public
5 outreach and the reasonableness of the costs shall be presumed,
6 and the defendant shall have the burden of proving, that the work
7 was not necessary, or the costs not reasonable.

8 (4) To enact ordinances to protect against any water
9 contamination hazards or potential water quality degradation, or
10 other circumstances endangering the public health and safety or
11 that render water unfit for beneficial use.

12 (5) To prevent unacceptable land surface subsidence or to
13 improve or protect the quantity or quality of groundwater supplies
14 within the groundwater basins or a subarea of the basin, by
15 requiring registration of all wells and controlling groundwater
16 extractions from the area by regulating, limiting, or suspending
17 extractions from wells, the construction of new wells, the enlarging
18 or modification of existing wells, and the reactivation of wells.

19 (6) To require the sealing of abandoned or unused wells
20 according to ordinance and to require the county or any
21 incorporated city in the county to require all persons applying for
22 any land development permit or approval to show on a map
23 attached to the application the existence and location of any well
24 on the property. If a well is shown, the map shall be referred by
25 the county to the district for review and action prior to approval
26 of the application.

27 (7) To take any action necessary or appropriate to litigate or
28 resolve any action or proceeding to prevent public nuisance
29 interference with, diminution or degradation of, or to declare rights
30 in the natural flow of, any stream or surface or subterranean supply
31 of water used or useful for any purpose of the district.

32 (f) All of the following powers with regard to water resources
33 stewardship:

34 (1) To provide for the protection, enhancement, and restoration
35 of watercourses, watersheds, wetlands, riparian functions, habitat,
36 and natural resources in connection with carrying out the purposes
37 set forth in this part.

38 (2) To prevent contamination, pollution or otherwise rendering
39 unfit for beneficial use the surface or subsurface water used or
40 useful in the district.

1 (3) To provide information, resources, and consultation to the
2 agencies responsible for land-use decisions or actions that may
3 affect the health, stability, or function of watercourses, watersheds,
4 groundwater basins, riparian functions, habitat, and natural
5 resources within the district.

6 (4) To collaborate with other entities to provide access for trails,
7 open space, recreational use, or environmental protection on district
8 property.

9 (5) To implement environmental enhancement activities and
10 mitigation and monitoring of natural resources.

11 (6) To enact regulations to protect water resources stewardship
12 facilities from activities that could diminish their ability to achieve
13 their purpose.

14 (g) All of the following financial powers:

15 (1) To establish and collect rates and charges for the purpose
16 of paying any obligation of the district, and to carry out any of the
17 purposes of this part.

18 (2) To prescribe, revise, and collect property-related fees and
19 charges for facilities, including, but not limited to, flood protection,
20 stormwater management, storm drainage, mitigation banks,
21 restoration, enhancement, protection, or preservation of habitats,
22 furnished or to be furnished to any new building, improvement,
23 or structure constructed or to be constructed in a zone of the
24 district.

25 (3) If a drainage or flood control problem is referred to the
26 district by the County of Santa Clara, or any incorporated city in
27 the county, as authorized by the Subdivision Map Act (Division
28 2 (commencing with Section 66410) of Title 7 of the Government
29 Code) or otherwise, to require the installation of drainage or flood
30 control improvements necessary or convenient for needs of the
31 zone, including, but not limited to, residential, subdivision,
32 commercial, and industrial drainage and flood control needs.
33 Revenues derived under this section shall be used for the following:

34 (A) The acquisition, construction, reconstruction, maintenance,
35 and operation of the flood control or storm drainage facilities of
36 the zone.

37 (B) To reduce the principal or interest of any bonded
38 indebtedness thereof.

39 (C) To replace funds expended on behalf of that zone.

40 ~~(D)~~

1 (4) To incur indebtedness, and to issue bonds.

2 ~~(E)~~

3 (5) To cause taxes or assessments to be imposed and collected
4 for the purpose of paying any obligation of the district, and to carry
5 out any of the purposes of this part.

6 ~~(F)~~

7 (6) To impose groundwater management charges to cover the
8 cost of groundwater management activities, including conjunctive
9 use, for the production of water from the groundwater supplies
10 within a zone of the district that benefits from recharge of
11 groundwater supplies, from the availability or distribution of
12 imported water, or from the extraction of groundwater from all
13 water extraction facilities within the district.

14 ~~(G)~~

15 (7) To receive grants and other sources of funding.

16 ~~(H)~~

17 (8) To pay to any city, public agency, district, or private
18 postsecondary educational institution, a portion of the cost of water
19 imported by that city, public agency, district, or educational
20 institution into, for use within, and of benefit to, the district.

21 100052. The district shall not intervene or take part in, or pay
22 the costs or expenses of, private actions or controversies between
23 the owners of lands or water rights that do not affect the interests
24 of the district.

25
26 CHAPTER 4. BOARD OF DIRECTORS AND GOVERNANCE
27

28 100060. The board of directors shall consist of seven members,
29 one elected from each of seven electoral districts. The term of
30 office of a director shall be four years beginning at noon on the
31 first Friday in December following his or her election. A director
32 shall hold office until a successor is elected or appointed and
33 qualified.

34 100061. (a) On or before June 30, 2010, the board shall adopt
35 a resolution that divides the district into seven electoral districts
36 and that assigns a number to each district.

37 (b) Using the most recent census data as a basis, the electoral
38 districts shall be as nearly equal in population as possible.

39 (c) In establishing the boundaries of the electoral districts, the
40 board may give consideration to the topography, geography,

1 cohesiveness, contiguity, integrity, compactness of territory, and
2 the community of interests of the electoral districts.

3 (d) The board shall review the boundaries of the seven electoral
4 districts before November 1 of the year following the year in which
5 each decennial census is taken. The board shall adjust the
6 boundaries if determined to be necessary in accordance with
7 Section 22000 of the Elections Code.

8 100061.5. (a) The first elections for the first, fourth, sixth, and
9 seventh electoral districts established pursuant to Section 100061
10 shall be conducted at the November 2, 2010, statewide general
11 election. The first elections for the second, third, and fifth electoral
12 districts established pursuant to Section 100061 shall be conducted
13 at the November 6, 2012, statewide general election.

14 (b) Elections for the electoral districts established pursuant to
15 Section 100061 shall be conducted in accordance with the Uniform
16 District Election Law (Part 4 (commencing with Section 10500)
17 of Division 10 of the Elections Code).

18 (c) (1) One director shall be elected in accordance with this
19 section by the voters of each electoral district.

20 (2) A candidate for the board of directors shall be a resident,
21 and a qualified elector, in the electoral district for which he or she
22 is a candidate.

23 (3) A director shall continue to reside within the electoral district
24 during his or her term of office, except that no change in boundaries
25 of an electoral district shall affect the term of office of any
26 incumbent director.

27 (d) The directors elected pursuant to this section shall exercise
28 their independent judgment on behalf of the interests of the entire
29 district, including the residents, property owners, and the public
30 as a whole in furthering the purposes and intent of this part.

31 (e) Except as otherwise provided in this part, the individuals
32 who serve on the board of directors on December 31, 2010, in
33 accordance with the Santa Clara Valley Water District Act (Chapter
34 1405 of the Statutes of 1951, as amended) shall continue to serve
35 on the board established by this part. Accordingly, directors from
36 the second, third, and fifth supervisorial districts elected in 2008
37 serve until noon on December 7, 2012, after the first elections for
38 those seats are held.

39 100062. In order to encourage greater participation in the
40 political process, the board has discretion to uniformly authorize

1 partial or full payment of fees associated with candidate ballot
2 statements.

3 100063. Any vacancy in the office of a director shall be filled
4 pursuant to Section 1780 of the Government Code. Any director
5 appointed to fill a vacancy in the office of a director shall be a
6 qualified elector in the electoral district he or she will represent.

7 100063.5. (a) While serving as a member of the board of
8 directors, and for one year immediately following the end of the
9 director's term of office, no director shall seek or accept
10 compensated employment with the district.

11 (b) The board, by ordinance, shall adopt regulations governing
12 the activities of persons who lobby the district. Those regulations
13 shall include provisions requiring registration of lobbyists,
14 reporting requirements governing the activities of lobbyists and
15 communications with board members, and disclosure by directors
16 of contact with lobbyists prior to voting on matters related to the
17 contact. This ordinance shall be adopted no later than July 1, 2010.

18 (c) (1) No director shall contact staff on behalf of a party who
19 is bidding, or intends to bid, on a district contract or who has, or
20 intends, to submit a response to a request for proposals or request
21 for qualifications, nor shall a director inquire about the identity of
22 bidders or proposers prior to the time that staff has made a
23 recommendation for selection of a contractor, vendor, or consultant.

24 (2) Paragraph (1) does not prohibit a director from making
25 general inquiries about the status of a particular procurement, or
26 from providing a member of the public with information about the
27 appropriate staff contact concerning procurement of goods and
28 services by the district.

29 (d) The board shall not authorize severance pay for a
30 board-appointed employee of the district when the employee
31 voluntarily separates from district employment. For purposes of
32 this subdivision, "severance pay" does not include any otherwise
33 lawful payment required to be paid by the district under a
34 preexisting employment agreement or under a separation and
35 release agreement resolving a claim or claims made or threatened
36 to be made against the district. The board shall not agree to amend
37 an employment contract after the employee announces or requests
38 a voluntary separation, except upon a board determination, in open
39 session, that an adjustment in compensation is required to retain
40 the employee and is in the best interest of the district.

1 100064. Each year at a regular board meeting in January, the
2 board shall select a chairperson and vice chairperson from its
3 members to serve for a year term.

4 100065. (a) All meetings of the board shall be called and held
5 in accordance with the Ralph M. Brown Act (Chapter 9
6 (commencing with Section 54950) of Part 1 of Division 2 of Title
7 5 of the Government Code).

8 (b) A public report made pursuant to Section 54957.1 of the
9 Government Code of actions taken in closed session shall be
10 reflected in the minutes of the board meeting at which the report
11 was made.

12 100065.5. (a) (1) Except as provided in paragraph (2), reports
13 prepared by district staff for the board that recommend action on
14 any item to be considered at a regular public meeting of the board,
15 or at a public hearing conducted by the board, shall be made
16 available to the public no later than six days prior to the date of
17 that meeting or hearing.

18 (2) Notwithstanding paragraph (1), the following reports shall
19 be made available to the public within the time period required by
20 the Ralph M. Brown Act (Chapter 9 (commencing with Section
21 54950) of Part 1 of Division 2 of Title 5 of the Government Code):

22 (A) Reports relating to a contract award, if the contract has been
23 considered at a prior board meeting.

24 (B) Reports recommending board action necessary to meet a
25 legal deadline, including a deadline for a grant funding application.

26 (C) Reports conveying a recommendation from a board
27 committee.

28 (D) Reports recommending immediate board action to address
29 urgent health, safety, or financial matters identified in the report.

30 (E) Supplemental reports conveying additional information
31 received after the initial report was released.

32 (3) If a recommendation in a staff report is revised based upon
33 direction from a member of the board, the revision shall be
34 disclosed in the applicable report.

35 (4) This subdivision does not require the public release of any
36 document that is exempt from disclosure pursuant to the California
37 Public Records Act (Chapter 3.5 (commencing with Section 6250)
38 of Division 7 of Title 1 of the Government Code) or any other
39 provision of law.

1 100066. (a) The board, in accordance with Chapter 2
2 (commencing with Section 20200) of Division 10, may authorize
3 each director to receive compensation for attendance at meetings
4 of the board and committees and for other service rendered as a
5 director. A director shall not receive total compensation, including
6 stipends, expenses, or benefits, in excess of the amount allowed
7 by law. Reimbursement for expenses incurred by directors is
8 subject to Sections 53232.2 and 53232.3 of the Government Code.

9 (b) On a quarterly basis, a report of the expense reimbursements
10 to each director shall be placed on an open session board meeting
11 agenda for review and a determination by the board regarding
12 whether the expense reimbursements comply with the board's
13 reimbursement policies adopted pursuant to Section 53232.3 of
14 the Government Code. Only expenses in compliance with those
15 policies shall be reimbursed by the district.

16 100067. The board, by resolution, may establish or eliminate
17 advisory boards, committees, or commissions as in its judgment
18 will serve the best interests of the district. At least one such
19 advisory body shall include representation by users of agricultural
20 water. The board may assign duties consistent with this part. The
21 composition of an advisory board, committee, or commission shall
22 be specified in the creating resolution, and each board, committee,
23 or commission is required to have at least three members. Members
24 serve at the pleasure of the board.

25 ~~100068. (a) Except as otherwise provided in this part, district~~
26 ~~elections shall be conducted in accordance with the Uniform~~
27 ~~District Election Law (Part 4 (commencing with Section 10500)~~
28 ~~of Division 10 of the Elections Code). However, notwithstanding~~
29 ~~those provisions, directors shall take office at noon on the first~~
30 ~~Tuesday in January following their election.~~

31 ~~(b) Members~~

32 100068. A member of the board may be recalled by the voters
33 pursuant to Chapter 1 (commencing with Section 11000) of
34 Division 11 of the Elections Code.

35 100069. The board of directors shall serve as the governing
36 body of the district. The board may take action by motion,
37 resolution, or ordinance. Unless otherwise provided in this part,
38 the affirmative vote of a majority of the board is required to pass
39 a motion, resolution, or ordinance.

1 100070. A motion is adopted when carried by the required
2 majority vote.

3 100071. If more formality than a motion is required or desired
4 to authorize board action, a resolution recorded in the minutes of
5 the meeting may be adopted. A resolution is adopted when carried
6 by the required majority on a roll call vote.

7 100072. (a) For those matters of significant legislative
8 importance that require both formality and the need to obtain input
9 from the public, the board is authorized to take action through
10 adoption of an ordinance. An ordinance is subject to referendum
11 by the electorate.

12 (b) A public hearing, noticed pursuant to Section 6066 of the
13 Government Code, is a prerequisite to adoption of an ordinance.
14 To be valid, an ordinance shall be enacted by a majority on a roll
15 call vote documented in the minutes of the board meeting. If
16 publication is required under state law, only the title of the
17 ordinance shall be published. An ordinance shall be in full force
18 and effect 30 days after adoption, or at a later time specified in the
19 ordinance.

20 (c) It is a misdemeanor for any person to violate any district
21 ordinance adopted pursuant to this section from and after the
22 effective date of the ordinance. The violation is punishable by a
23 fine not to exceed five hundred dollars (\$500), or imprisonment
24 in the county jail not to exceed 30 days, or both the fine and
25 imprisonment.

26 (d) Any violation or threatened violation of a district ordinance
27 may also be enjoined by civil action.

28 100073. Prior to adoption of a regulation, the board shall make
29 a finding that the public necessity requires the action, and the
30 resolution or ordinance enacted shall state the ultimate facts upon
31 which the finding is based.

32 100074. (a) The board may appoint and employ any officers
33 and positions as desired and prescribe their duties and set their
34 compensation.

35 (b) The board appointees shall hire the additional employees
36 deemed necessary to perform acts necessary or proper to
37 accomplish the purposes of this part.

38 (c) Officers and employees shall be employed, suspended, or
39 their employment terminated in accordance with written rules,

1 regulations, standards, and procedures for appointment, suspension,
2 and termination of employment.

3 100075. At the option of the board, employees appointed by
4 the board may be required to execute public official bonds before
5 entering upon the duties of their employment. The district board
6 may opt for the district to pay for the bonds.

7 100076. Except as otherwise provided by this part or other
8 applicable law, Part 3 (commencing with Section 900) and Part 4
9 (commencing with Section 940) of Division 3.6 of Title 1 of the
10 Government Code govern claims for money or damages against
11 the district.

12 100077. In order to determine the legality of the district's
13 existence, or of any contract entered into by the district, the district
14 may institute a proceeding in the superior court of this state,
15 pursuant to Section 860 of the Code of Civil Procedure. The State
16 of California shall be a required defendant in the action, and
17 consent to be named a defendant is given.

18
19 CHAPTER 5. ZONES
20

21 100080. (a) The board, by resolution, may at any time establish
22 one or more separate or overlapping zones within the district
23 without reference to the boundaries of other zones. A zone may
24 be created by the board upon a determination that it is in the public
25 interest to provide specific water resource management, flood
26 control or watershed stewardship services, or levels of service,
27 construct or improve facilities, or raise revenues, within a defined
28 area of the district.

29 (b) The district may provide any service or level of service, or
30 construct or improve any facility within a zone, that the district is
31 authorized to undertake in the district as a whole. The district may
32 exercise any fiscal power within a zone that the district is
33 authorized to exercise in the district as a whole. Prior to the
34 imposition of any management charge, the board shall establish
35 the zones within which the management charge will be effective.

36 (c) (1) To initiate proceedings for the formation of a new zone,
37 the board shall adopt a resolution that does all of the following:

38 (A) States that the proposal is made pursuant to this section.

39 (B) Sets forth a description of the boundaries of the territory to
40 be included in the zone.

1 (C) Describes the reasons for forming the zone.

2 (D) Identifies the services or levels of service to be provided,
3 facilities to be constructed or improved, or revenues to be raised,
4 within the zone.

5 (E) Describes the methods by which those services or levels of
6 service, or facilities, will be financed.

7 (F) Proposes a name or number for the zone.

8 (2) The formation of a zone may also be initiated by the
9 submission of a petition signed by not less than 10 percent of the
10 registered voters residing within the proposed zone. The petition
11 shall contain all of the information described in subdivision (c).

12 (3) Upon the adoption of a resolution or the receipt of a petition
13 pursuant to paragraph (2), the board shall fix the date, time, and
14 place for the public hearing on the formation of the zone. The
15 district shall publish notice of the hearing, including the
16 information described in paragraph (1), pursuant to Section 6061
17 of the Government Code. The district shall mail the notice at least
18 20 days before the date of the hearing to all owners of property
19 within the proposed zone. The district shall post the notice in at
20 least three public places within the territory of the proposed zone.

21 (4) At the hearing described in paragraphs (1) to (3) inclusive,
22 the board shall hear and consider any protests to the formation of
23 the zone. If, at the conclusion of the hearing, the board determines
24 either that more than 50 percent of the total number of voters
25 residing within the proposed zone have filed written objections to
26 the formation, or that property owners who own more than 50
27 percent of the assessed value of all taxable property in the proposed
28 zone have filed written objections to the formation, the board shall
29 terminate the proceedings. If the board determines that the written
30 objections have been filed by 50 percent or less of those voters or
31 property owners who own 50 percent or less than the assessed
32 value of all taxable property in the proposed zone, the board may
33 proceed to form the zone.

34 (5) If the resolution or petition proposes that work within the
35 zone is to be financed by special taxes, benefit assessments, fees,
36 standby charges, bonds, or notes, the board shall proceed according
37 to law. If the voters or property owners do not approve those
38 funding methods, the zone shall remain formed, but alternative
39 financing shall be obtained.

1 (d) The board may change the boundaries of a zone or dissolve
2 a zone by following the procedures for the formation of a zone.

3 (e) A local agency formation commission shall not review,
4 approve, or disapprove a proposal to form a zone, a proposal to
5 change the boundaries of a zone, or a proposal to dissolve a zone.

6 (f) Proceedings for the establishment of a new zone or for an
7 amendment to existing zones may be conducted concurrently with,
8 and as a part of the institution of, projects providing service to the
9 zones to be created.

10
11 CHAPTER 6. FINANCIAL MATTERS
12

13 100090. The district shall adopt a system of accounting and
14 auditing that shall completely and at all times show the district's
15 financial condition. The system of accounting and auditing shall
16 adhere to generally accepted accounting principles *and auditing*
17 *standards*. The chief financial officer shall make, at a minimum,
18 quarterly written reports to the board regarding the receipts and
19 disbursements and balances in the accounts controlled by the
20 district.

21 100091. (a) On or before June 15 of each year, the board shall
22 meet, at the time and place designated by published notice, at
23 which meeting any member of the general public may appear and
24 be heard regarding any item in the proposed budget or for the
25 inclusion of additional items.

26 (b) At the same time and place designated in the public notice,
27 the board shall review its financial reserves, including the
28 justification therefor, and its reserve management policy.

29 (c) After the conclusion of the meeting, and not later than June
30 30 of each year, and after making any revisions of, deductions
31 from, or increases or additions to, the proposed budget that the
32 board determines advisable during or after the meeting, the board,
33 by resolution, shall adopt the budget as finally determined.

34 100092. (a) *In its budget, the board of directors may establish*
35 *a designated reserve for capital outlay and a designated reserve*
36 *for contingencies. If the board of directors establishes a designated*
37 *reserve, it shall declare the exclusive purposes for which the funds*
38 *in the reserve may be spent. The funds in the designated reserve*
39 *shall be spent only for the exclusive purposes for which the board*
40 *of directors established the designated reserve. The reserves shall*

1 *be maintained according to generally accepted accounting*
2 *principles. The reserves shall be kept in an interest bearing*
3 *account.*

4 *(b) After the establishment of a designated reserve, the board*
5 *of directors may transfer any funds to that designated reserve.*

6 *(c) If the board of directors finds that the funds in a designated*
7 *reserve are no longer required for the exclusive purposes for which*
8 *it was established, the board of directors, by a four-fifths vote of*
9 *the total membership of the board of directors, may discontinue*
10 *the designated reserve or transfer any funds that are no longer*
11 *required from the designated reserve to the district's general fund.*

12 *(d) Notwithstanding any other provision of this section, in a*
13 *state of emergency or in a local emergency, a board of directors*
14 *may temporarily transfer funds from a designated reserve for*
15 *capital outlay or a designated reserve for contingencies to the*
16 *district's general fund. The board of directors shall restore these*
17 *funds to the designated reserves as soon as feasible.*

18 *100093. (a) At any regular meeting or properly noticed special*
19 *meeting after the adoption of its final budget, the board of directors*
20 *may adopt a resolution amending the budget and ordering the*
21 *transfer of funds between categories with delegated fund limits.*

22 *(b) The board of directors may authorize the chief executive*
23 *officer to transfer funds between budget categories with delegated*
24 *fund limits.*

25 *(c) Only the board of directors may transfer funds from a*
26 *designated reserve for capital outlay or a designated reserve for*
27 *contingencies.*

28 ~~*100092.*~~

29 *100094. If the board determines that the amount of revenue*
30 *available to the district or any of its zones is inadequate to acquire,*
31 *construct, improve, rehabilitate, manage, or replace the facilities*
32 *authorized by this part, or to meet the costs of providing the*
33 *services or administering the programs authorized by this part, or*
34 *for funding or refunding any outstanding indebtedness, the board*
35 *may incur debt and raise revenues pursuant to this part.*

36 ~~*100093.*~~

37 *100095. (a) The district may charge a fee to cover the cost of*
38 *any service that the district provides, or the cost of enforcing any*
39 *regulation for which the fee is charged. A fee shall not exceed the*

1 costs reasonably borne by the district in providing the service or
2 enforcing the regulation for which the fee is charged.

3 (b) The district may charge residents or taxpayers of the district
4 a fee authorized by this section that is less than the fee that it
5 charges nonresidents or nontaxpayers.

6 (c) The board, by resolution, may adopt policies and procedures
7 governing the partial or full waiver of any fees charged pursuant
8 to this section if it is determined that imposition of the fee in a
9 particular situation would not be in the public interest.

10 ~~100094.~~

11 100096. Prior to imposing or increasing any fee for
12 property-related services, the district shall comply with the
13 requirements of Article XIII D of the California Constitution.

14 ~~100095.~~

15 100097. The district may impose standby charges for water
16 pursuant to the Uniform Standby Charge Procedures Act (Chapter
17 12.4 (commencing with Section 54984) of Part 1 of Division 2 of
18 Title 5 of the Government Code).

19 ~~100096.~~

20 100098. (a) The district may expend its share of property tax
21 revenue allocated pursuant to subdivision (b) of Section 93 of the
22 Revenue and Taxation Code to pay for both of the following:

23 (1) The general administrative costs and expenses, including
24 maintenance and operation of established works of the district, to
25 carry out any of the objects or purposes of this part of common
26 benefit to the district.

27 (2) The costs and expenses of constructing or extending any or
28 all works established within or on behalf of a zone or participating
29 zones within the district if revenue used for that purpose is
30 replaced.

31 (b) California voter approval having been obtained in 1960 for
32 the State Water Project (SWP) and the obligations created by the
33 SWP contracts, the district may levy an ad valorem property tax
34 pursuant to subdivision (b) of paragraph (1) of Section 1 of Article
35 XIII A of the California Constitution in order to cover payment of
36 indebtedness for required SWP contract payments, including for
37 repayment of bonded indebtedness, and maintaining, operating,
38 expanding, or replacing the system. This tax may be increased
39 upon the board's exercise of discretion and finding that: (1)
40 revenues from water sales and other sources cannot reasonably be

1 used to cover all of the needs of the district, including SWP
2 contract obligations, and (2) that an ad valorem property tax is
3 reasonably necessary to meet the district's SWP contract
4 obligations.

5 ~~100097.~~

6 *100099.* The district may impose benefit assessments to pay
7 the cost of carrying out any of the objects or purposes of this part
8 on behalf of a zone or zones, including constructing, maintaining,
9 managing, operating, extending, maintaining, repairing or otherwise
10 improving any work of improvement, implementing programs or
11 projects, or financing any of the foregoing, consistent with Article
12 XIII D of the California Constitution. These benefit assessments
13 include, but are not limited to, benefit assessments imposed
14 pursuant to any of the following:

15 (a) The Improvement Act of 1911 (Division 7 (commencing
16 with Section 5000) of the Streets and Highways Code).

17 (b) The Improvement Bond Act of 1915 (Division 10
18 (commencing with Section 8500) of the Streets and Highways
19 Code).

20 (c) The Municipal Improvement Act of 1913 (Division 12
21 (commencing with Section 10000) of the Streets and Highways
22 Code).

23 (d) The Landscaping and Lighting Assessment Act of 1972
24 (Part 2 (commencing with Section 22500) of Division 15 of the
25 Streets and Highways Code).

26 ~~100098.~~

27 *100100.* The district may impose special taxes, consistent with
28 Article XIII C of the California Constitution, pursuant to the
29 following:

30 (a) Article 3.5 (commencing with Section 50075) of Chapter 1
31 of Part 1 of Division 1 of Title 5 of the Government Code. The
32 special taxes shall be applied uniformly to all taxpayers or all real
33 property within the district, except that unimproved property may
34 be taxed at a lower rate than improved property. The district may
35 provide an exemption from these taxes for residential parcels
36 owned and occupied by one or more taxpayers who are at least 65
37 years of age, or who qualify as totally disabled under the federal
38 Social Security Act, if the total household income is less than an
39 amount that is approved by the voters of the district.

(b) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

100101. If the board of directors determines that the amount of revenue available to the district or any of its zones is inadequate to acquire, construct, improve, rehabilitate, or replace the facilities authorized by this division, or for funding or refunding any outstanding indebtedness, the board of directors may incur debt pursuant to this chapter or any other applicable provision of law.

~~100099.~~

100102. (a) The district may issue promissory notes to borrow money and incur indebtedness for the purposes of this part, including, but not limited to, the payment of current expenses, pursuant to this section.

(b) Any indebtedness incurred pursuant to this section shall bear interest at a rate that shall not exceed the rate permitted under Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

(c) Each indebtedness incurred pursuant to this section shall be authorized by resolution adopted by a four-fifths vote of the board and evidenced by a promissory note signed by both the chairperson of the board and the district's chief executive officer.

~~100100.~~

100103. (a) The district may borrow money and incur short-term indebtedness, not to exceed the limitations established in subdivision (d) by action of the board of directors without the necessity of calling and holding an election.

(b) Indebtedness may be incurred pursuant to this section for any purpose for which the district is authorized to expend funds.

(c) Indebtedness incurred under this section shall be evidenced by short-term notes payable at stated times fixed by the board. The short-term notes shall mature no later than five years from the date of issuance. Interest on short-term notes shall not exceed the limits established under state law. Short-term notes are general obligations of the district payable from revenues, charges, taxes, and assessments.

(d) Short-term notes shall not to be issued if in any fiscal year the amount payable, when added to the interest thereon, exceeds 85 percent of the estimated amount of the revenues, charges, taxes,

1 and assessments of the district that will be available in that fiscal
2 year for payment of short-term notes and the interest thereon.

3 ~~100101.~~

4 *100104.* (a) If the board determines that it is necessary to incur
5 a general obligation bond indebtedness for the acquisition or
6 improvement of real property, the board may proceed pursuant to
7 Article 11 (commencing with Section 5790) of Chapter 4 of
8 Division 5 of the Public Resources Code.

9 (b) If the board determines that a bonded indebtedness should
10 be incurred to pay the cost of any project in any zone or zones, the
11 board, by resolution, may determine and declare the respective
12 amounts of bonds to be issued to raise the amount of money
13 necessary for each project and the denomination and the maximum
14 rate of interest of the bonds. In determining each amount of bonds
15 and the amount of money necessary for each project, the board
16 may include in its determination all of the following:

17 (1) The portion, if any, of the cost of the project already
18 advanced by the district for which the district proposes to reimburse
19 itself from the proceeds of sale of the bonds.

20 (2) The cost of lands, rights-of-way, easements, and property
21 proposed to be taken, acquired, or injured in carrying out the
22 project.

23 (3) All incidental expenses likely to be incurred, including legal,
24 clerical, engineering, superintendence, inspection, printing, and
25 advertising.

26 (4) If deemed advisable, an amount sufficient to pay interest on
27 any bonds proposed to be issued during all or any part of the period
28 of construction of the project and for a period not to exceed 12
29 months thereafter. The board shall cause a copy of the resolution,
30 duly certified by the clerk, to be filed for record in the office of
31 the county recorder within five days after its issuance. After the
32 filing of the resolution, the board may proceed with the bond
33 election.

34 (c) Upon authorization, the board may call a special bond
35 election in the zone or zones participating submitting the question
36 whether or not bonds can be issued in the amount determined in
37 the resolution for the purpose stated. The bonds and the interest
38 thereon shall be paid from revenue derived from annual taxes,
39 rates, or assessments imposed in accordance with this part.

1 (d) The board shall call the special bond election by ordinance
2 and not otherwise. The ordinance shall include all of the following:

3 (1) A brief, general description of the objects and purposes, and
4 a reference to the recorded copy of the resolution adopted by the
5 board.

6 (2) The estimated cost of the proposed project, the amount of
7 the principal of the indebtedness to be incurred, and the maximum
8 rate of interest to be paid on the indebtedness. The rate of interest
9 to be paid on the indebtedness shall not exceed the limits provided
10 under state law.

11 (3) The date on which the special election will be held.

12 (4) The form and contents of the ballot to be used.

13 (5) The establishment of special bond election precincts within
14 the boundaries of each zone.

15 (6) The designation of a polling place and appointment of one
16 inspector, one judge, and one clerk for each special bond election
17 precinct.

18 (e) The general election laws of the state govern the election,
19 except as otherwise provided in this part and set forth in the
20 ordinance.

21 (f) The board shall cause a map or maps to be prepared that
22 includes a general description of the project, and that identifies
23 the location of the proposed projects. The map shall be posted on
24 the district Internet Web site and in a prominent place at the district
25 office for public inspection for at least 30 days before the date
26 fixed for the election.

27 (g) The district shall publish, pursuant to Section 6062 of the
28 Government Code, in a newspaper of general circulation circulated
29 in each zone affected, the ordinance calling for the special bond
30 election. The required publication shall be completed at least 14
31 days before the election. If there is no newspaper, the ordinance
32 shall be posted on the district's Internet Web site or in five public
33 places, in each zone designated by the board for at least 30 days
34 before the date of the election. The district is not required to
35 provide additional notice of the election, or to issue polling place
36 cards.

37 (h) Any defect or irregularity in the proceedings prior to the
38 calling of the special bond election will not affect the validity of
39 the bonds authorized by the election. If at the election the required
40 percentage of the votes cast are in favor of incurring bonded

1 indebtedness, bonds for the zone or participating zones for the
2 amount stated in the proceedings shall be issued and sold.

3 *(i) If any proposition pursuant to this section is defeated by the*
4 *voters, the board of directors shall not call for another election*
5 *on a substantially similar proposition for six months after the first*
6 *election.*

7 ~~100102.~~

8 *100105.* (a) The board, by resolution, shall prescribe the form
9 of bonds, which shall include a designation of the zones affected,
10 and of the interest coupons attached thereto. Bonds shall be payable
11 annually or semiannually at the discretion of the board each and
12 every year on a day and date, and at a place to be fixed by the
13 board, and designated in the bonds, together with the interest on
14 all amounts unpaid on the date until the whole of the indebtedness
15 has been paid.

16 (b) The board may divide the principal amount of any issue into
17 two or more series and fix different dates for the bonds of each
18 series. The bonds of one series may be made payable at different
19 times from those of any other series. The maturity of each series
20 shall comply with this section. The board may fix a date, not more
21 than two years from the date of issuance, for the earliest maturity
22 of each issue or series of bonds. The final maturity date shall not
23 exceed 40 years from the time of incurring the indebtedness
24 evidenced by each issue or series. The board may provide for call
25 and redemption of all or any part of any issue or series of bonds
26 before maturity at prices determined by the board. A bond is not
27 subject to call or redemption prior to maturity unless it contains a
28 recital to that effect.

29 (c) The bonds shall be issued in any denominations as the board
30 determines. Bonds shall be issued in denominations of one
31 thousand dollars (\$1,000) or more, payable on the days and at the
32 place fixed in the bonds, at the specified interest rate, made payable
33 annually or semiannually. The bonds shall be numbered
34 consecutively, signed by the chair of the board, and countersigned
35 by the auditor of the district, with the seal of the district affixed
36 thereto by the clerk of the board. Signatures may be printed,
37 engraved, or lithographed. The interest coupons of the bonds shall
38 be numbered consecutively and signed by the auditor. In case any
39 officer whose signatures or countersignatures appear on the bonds
40 or coupons ceases to be an officer before the delivery of the bonds

1 to the purchaser, the bonds, coupons, and signatures or
2 countersignatures shall nevertheless be valid and sufficient for all
3 purposes.

4 ~~100103. The board may issue and sell the authorized bonds at~~
5 ~~not less than par value;~~

6 *100106. The board may issue and sell the authorized bonds*
7 *for the uses and purposes of the zone or zones. The proper record*
8 *of the transactions shall be placed upon the books of the district,*
9 *and the respective zone funds shall be applied exclusively to the*
10 *purposes and objects described in the ordinance calling the special*
11 *bond election.*

12 ~~100104.~~

13 *100107. Any bonds issued under this part and the interest*
14 *thereon shall be paid by revenue derived from rates or an annual*
15 *tax or assessment, imposed in accordance with this part. No zone,*
16 *nor the property in the zone, is liable for the share of bonded*
17 *indebtedness of any other zone; nor shall any moneys derived from*
18 *taxation or assessment in any of the several zones be used in*
19 *payment of principal or interest or otherwise of the share of bonded*
20 *indebtedness chargeable to any other zone, except in the case of*
21 *joint projects by participating zones.*

22 ~~100105.~~

23 *100108. To the extent not covered by water rates, the board*
24 *shall impose a tax or assessment each year sufficient to pay the*
25 *interest and that portion of the principal of the bonds that is due*
26 *or to become due before the time for making the next general tax*
27 *levy. Taxes or assessments shall be imposed and collected in the*
28 *respective zones of issuance together with, and not separately from,*
29 *taxes for county purposes. Collected funds shall be paid into the*
30 *county treasury to the credit of the zone of payment, and be used*
31 *for the payment of the principal and interest on the bonds, and for*
32 *no other purpose. The county treasurer shall pay the principal and*
33 *interest on the bonds in the manner provided by law for the*
34 *payment of principal and interest on bonds of the county.*

35 ~~100106.~~

36 *100109. The bonds of the district issued for any zone or zones,*
37 *are legal investments for all trust funds, and for the funds of all*
38 *insurance companies, banks, both commercial and savings, and*
39 *trust companies, and for the state school funds, and whenever any*
40 *money or funds may by law be used as security for the performance*

1 of any act, or be invested in bonds of cities, cities and counties,
2 counties, school districts, or municipalities in the state, the money
3 or funds may be invested in the bonds of the district.

4 ~~100107.~~

5 *100110.* All bonds issued by the district under the provisions
6 of this part shall be free and exempt from all taxation within the
7 state.

8 ~~100108.~~

9 *100111.* Any improvement for which bonds are approved for
10 issuance in accordance with this part shall be made in accordance
11 with the supporting report, plans, specifications, and map unless
12 the doing of any work is prohibited by law, or is rendered contrary
13 to the best interests of the district by some change of conditions
14 in relation thereto, in which event the board may order necessary
15 changes made in the proposed work or improvements and may
16 cause any plans and specifications to be made and adopted.

17 ~~100109.~~

18 *100112.* If bonds have been authorized by any zone or
19 participating zone of the district and the proceeds of the sale have
20 been properly expended, and the board, by resolution, determines
21 that additional bonds should be issued for carrying out the work,
22 the board may submit to the qualified voters of the zone or
23 participating zone the question of issuing additional bonds in the
24 same manner and procedure as provided in this part. All the
25 requirements of this part for the issuing and sale of the bonds and
26 for the expenditure of the proceeds apply to the additional bonds.

27 ~~100110.~~

28 *100113.* (a) The board may finance any enterprise and issue
29 revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter
30 6 (commencing with Section 54300) of Part 1 of Division 2 of
31 Title 5 of the Government Code) for the purpose of financing the
32 construction, reconstruction, replacement, acquisition, or
33 improvement of any facility or facilities necessary or convenient
34 for the storage, treatment, including reclamation, transmission, or
35 distribution of water for beneficial use within the district and for
36 the purpose of generation or transmission of electricity. This section
37 does not apply to the acquisition of any facility or facilities already
38 employed in any public utility use, unless the acquisition of the
39 facility or facilities is by mutual agreement between the district
40 and the owner of the property.

1 (b) The district may finance facilities and issue bonds pursuant
2 to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5
3 (commencing with Section 53311) of Part 1 of Division 2 of Title
4 5 of the Government Code).

5 (c) The district may acquire and improve land, facilities, or
6 equipment and issue securitized limited obligation notes pursuant
7 to Article 7.4 (commencing with Section 53835) of Chapter 4 of
8 Part 1 of Division 2 of Title 5 of the Government Code.

9 (d) Article 3 (commencing with Section 54380) of Chapter 6
10 of Part 1 of Division 2 of Title 5 of the Government Code shall not
11 apply to the issuance and sale of bonds pursuant to this section.

12 (e) The board shall not proceed under this section until it has
13 received a favorable vote at a special election called by resolution
14 of the board as to whether the district may authorize and sell
15 revenue bonds under this section. If the required percentage of the
16 voters of the district voting on the proposition at the election vote
17 in favor of the proposition, the board may proceed to issue and
18 sell revenue bonds as provided by this section.

19 (f) The resolution calling the election shall include all of the
20 following:

21 (1) The date of the election.

22 (2) The proposition to be submitted.

23 (3) The manner of holding the election and of voting for or
24 against the proposition.

25 (4) A statement that in all other particulars the election will be
26 held and the votes canvassed as provided by law for the holding
27 of elections within the district.

28 (g) The election may be held separately or may be consolidated
29 with any other election authorized by law at which the voters of
30 the district may vote.

31 (h) The district shall publish the resolution calling the election
32 and no other notice of the election need be given.

33 ~~100114.~~

34 *100114.* If a proposition for issuing bonds fails to receive the
35 required number of affirmative votes of the qualified voters voting
36 at the election, the board shall not call or order another election
37 for the same object or purpose, in the same zone or participating
38 zone, for six months from the date of the failed election.

1 ~~100112.~~

2 100115. The repeal or amendment of this part or the change
3 in boundaries of any zone of the district shall not in any way affect
4 or release any of the property in that district or any zone from the
5 obligations of any outstanding bonds or indebtedness until all
6 outstanding bonds and indebtedness have been fully paid and
7 discharged.

8

9 CHAPTER 7. GROUNDWATER MANAGEMENT

10

11 100120. (a) Groundwater management within the boundaries
12 of the district is the prerogative of the district and a primary
13 purpose for which the district was established and is empowered.

14 (b) As an integral part of its comprehensive water management
15 program, the district shall conjunctively manage its groundwater
16 and surface water resources to optimize water supply reliability
17 for the benefit of the county as a whole and to protect infrastructure
18 from subsidence. This includes actively recharging groundwater
19 basins using local and imported water supplies as well as in-lieu
20 recharge methods, including, but not limited to, treated water
21 deliveries, recycled water development, and water conservation
22 programs.

23 100121. The district, by ordinance, may take any of the
24 following actions in order to improve or protect the quantity or
25 quality of groundwater supplies within the district:

26 (a) Impose reasonable registration and measurement device
27 requirements and operating regulations on water-producing
28 facilities to minimize impact on water resources.

29 (b) Require the owner or operator of each water-producing
30 facility to submit a sworn statement to the district regarding
31 groundwater production.

32 (c) Require conservation practices and measures.

33 (d) Impose tiered rates as a water management tool to meet the
34 purposes and intent of this part, including, but not limited to,
35 protecting against subsidence, protecting against water waste, and
36 promoting water use efficiency and water supply reliability.

37 (e) Enter into an agreement with an owner or operator of
38 water-producing facilities for the purpose of managing water
39 supplies of the district.

1 (f) Prevent harmful groundwater extractions by regulating,
2 limiting, or temporarily suspending any or all of the following:

- 3 (1) Extractions from water producing facilities.
- 4 (2) The construction of new water producing facilities.
- 5 (3) Modification of existing water producing facilities.
- 6 (4) The reactivation of abandoned water-producing facilities.

7 100122. The district shall annually assess and report on the
8 district's efforts toward protection and augmentation of the water
9 supplies of the district. The report shall include all of the following
10 information:

11 (a) Information describing the district's activities in the
12 protection and augmentation of the water supplies of the district.

13 (b) The water supplies available to the district.

14 (c) Information regarding the present and future water
15 requirements of the district.

16 (d) The amount of groundwater produced within each zone.

17 (e) Supplemental supplies needed to replenish or supplement
18 the groundwater supplies.

19 (f) Expected future capital improvement and maintenance and
20 operating requirements.

21 (g) The estimated costs for the fiscal year, and the long term,
22 of managing, protecting, operating, maintaining, augmenting, and
23 financing water supplies for each zone, including a detailed basis
24 upon which the costs are calculated and the reasons that any
25 particular groundwater management charge is increasing.

26 (h) Information specifying the benefits that have been received
27 and will be received within each zone where a groundwater
28 management charge has been imposed and collected, or is
29 recommended to be imposed. The methodology for ascribing a
30 particular cost or portion of cost to a particular zone shall be
31 specifically identified.

32 (i) A recommendation, with supporting detail, based upon the
33 factors in this section as to whether or not the groundwater
34 management charge should be reduced, maintained, or increased
35 in any zone for the upcoming fiscal year.

36 (j) If any groundwater management charge increase is
37 recommended for a zone, a proposal of a rate or rates per acre-foot
38 for agricultural water, and a rate or rates per acre-foot for all water
39 other than agricultural water shall be stated in the report. The

1 proposal shall show the proportional benefit and cost allocation
2 to the types of user or users within the zone.

3 (k) If tiered rates are being recommended, a recommendation
4 as to the basis for the tiered rates in each zone, as required under
5 the applicable ordinance.

6 100123. (a) A public hearing shall be held prior to imposing
7 a new or increased groundwater management charge. The board
8 may, but is not required to, hold a hearing if the board has
9 determined to leave an existing charge as previously established.

10 (b) The clerk of the district board, pursuant to Section 6061 of
11 the Government Code, shall publish a notice of the receipt of the
12 report and of the date, time, and place of the public hearing, giving
13 at least 45 days' notice of the hearing from the date of mailing of
14 the notice. The notice is required to be posted on the district
15 Internet Web site and shall also be mailed to the owner or operator
16 of any water-producing facility at least 45 days prior to the date
17 of the public hearing.

18 (c) The notice shall invite and inform all owners or operators
19 of water-producing facilities within the district and any person
20 interested in the district's activities to examine the report, which
21 shall be made available on the district's Internet Web site and at
22 district headquarters. The notice shall state the amount of the
23 recommended charges per acre, foot, or other unit of measurement,
24 the basis upon which the charge is calculated, the reason or reasons
25 for the charge, and that the owners or operators may in person, or
26 by a legally authorized representative, appear and submit evidence
27 concerning the subject of the written report, and may support,
28 comment upon, or protest any increase.

29 100124. (a) The board may impose and collect a groundwater
30 management charge for access to the production of water from the
31 groundwater supplies within a zone of the district that will benefit
32 directly or indirectly from the district's management, protection,
33 and augmentation of supplies or the distribution of imported water
34 in that zone.

35 (b) Groundwater management charges imposed pursuant to this
36 part are declared to be in furtherance of district activities in the
37 management, protection, and augmentation of the water supplies
38 of the district, including reasonably related watershed stewardship
39 activities, necessary for the public health, welfare, and safety of
40 the people of the district and this state. The groundwater

1 management charges may be imposed upon the owner or operator
2 of water-producing facilities within a zone for the benefit of all
3 who rely directly or indirectly upon the groundwater supplies of
4 the zone, water imported into the zone, or water management
5 facilities or programs within the zone or that benefit the zone.

6 (c) In recognition of the public policy of the state that
7 preservation of land in its natural, scenic, agricultural, or historic
8 open-space condition is an important environmental asset, and in
9 recognition of the greater likelihood of return flows, reduced water
10 usage on a per acre basis, greater water supply flexibility, reduced
11 water service costs, and other factors, the board, by resolution,
12 may impose a different rate for water to be used for agricultural
13 purposes.

14 (d) Groundwater management charges shall be calculated on
15 the basis of groundwater production statements required to be filed
16 pursuant to Section 100121.

17 100125. The proceeds of groundwater management charges
18 imposed and collected upon the production of water from
19 groundwater supplies within the district may be used to pay costs,
20 including staff costs, for the following conjunctive use activities:

21 (a) Permitting, managing, constructing, maintaining, and
22 operating facilities to import water into the district, including
23 payments made under any contract between the district and the
24 state, the United States, or any public, private, or municipal entity.

25 (b) Purchasing water for the benefit of the district, including
26 payments made under contract to the state, the United States, or
27 any public, private, or municipal utility.

28 (c) Managing water supplies for the current and future benefit
29 of the district, including demand management activities and
30 reasonably related watershed stewardship activities.

31 (d) Actions and programs to conserve, store, extract, inject,
32 recharge, recycle, protect, treat, transfer, exchange, or distribute
33 water for the current and future benefit of the district. These actions
34 include permitting, constructing, maintaining, and operating
35 facilities for these purposes, including facilities for groundwater
36 recharge, surface distribution, conjunctive use, and the treatment
37 of water.

38 (e) Payment of the principal or interest of any bonded
39 indebtedness or other obligations incurred by the district for any
40 of the purposes set forth in this section.

1 100126. Any or all revenues received by the district from
2 treated water sale contracts or surface water sales may be applied
3 to any or all of the costs set forth in Section 100125.

4 100127. (a) Prior to the end of the fiscal year, based on the
5 findings and determinations from the hearing, if a hearing is
6 required under Section 100123, and in accordance with the budget
7 for that year, the board shall determine whether a groundwater
8 management charge should be reduced or increased. The board
9 shall consider all protests filed pursuant to Section 100123
10 regarding the imposition of a *new or increased* charge, and if a
11 majority protest is received, the board shall not impose the new
12 *or increased* charge. A previously approved charge remains in
13 effect until reduced or increased. The anticipated revenues to be
14 derived from the charge shall not exceed the funds anticipated to
15 be needed for groundwater management services provided,
16 including prudent short- and long-term water supply and
17 conservation management, operations, maintenance, financing,
18 including prudent reserves adopted consistent with a publically
19 noticed board-adopted reserve policy and capital expenditures
20 pursuant to this part.

21 (b) Imposition and collection of groundwater management
22 charges shall be as follows:

23 (1) Any groundwater management charge imposed shall be
24 calculated at a volumetric rate or rates per acre-foot against each
25 operator of a water-producing facility within a zone during the
26 ensuing fiscal year.

27 (2) A rate or rates may be set in each zone independent of the
28 rate or rates in any other zone.

29 (3) If the board has adopted an ordinance authorizing tiered
30 rates, and determines that tiered rates should be imposed during
31 the ensuing fiscal year, tiered rates shall be established consistent
32 with the rationale and method established in the ordinance.

33 (4) Due to the proportional benefits to the water supplies of the
34 district resulting from the agricultural use of water, the base rate
35 for agricultural water may be established at a level that is less than
36 the rate for nonagricultural water.

37 (5) Clerical errors involving the name of any person or
38 description of a water-producing facility from which the production
39 of water is otherwise properly charged, that do not affect the

1 substantial rights of the water-producing owner or operator, shall
2 not invalidate the groundwater management charge.

3 (c) If the board determines that an off-cycle imposition or
4 adjustment of the groundwater management charge is necessary
5 to maintain the financial health of the district, the board may
6 impose or adjust any groundwater management charge, or the rates
7 of any charges, on or before January 1 of each year pursuant to
8 the following process:

9 (1) The district shall prepare a supplemental report to the annual
10 report prepared pursuant to Section 100122, explaining the reasons
11 for the imposition or adjustment of the charges. The supplemental
12 report shall be filed with the clerk of the board at least 45 days
13 before the date the new or adjusted charges are proposed to take
14 effect.

15 (2) A public hearing shall be noticed and held prior to imposing
16 or adjusting a groundwater management charge pursuant to the
17 notice and protest provisions pursuant to Sections 100122 and
18 100123.

19 100128. Upon board adoption of a groundwater management
20 charge, the district shall give notice stating the board approved
21 applicable rate or rates per acre-foot of water production for the
22 groundwater management charge for the ensuing fiscal year in the
23 applicable zone. The notice shall indicate the applicable collection
24 period and whether the owner or operator will be invoiced, or if
25 the district shall rely on a required self-reported water production
26 statement. The notice may be sent by postal card or by other
27 first-class mail with postage prepaid by the district to each owner
28 or operator of a water-producing facility as disclosed by the records
29 of the district.

30 100129. (a) The groundwater management charge is due and
31 payable to the district on or before the last date upon which the
32 water production statements are required to be filed.

33 (b) The charge is computed by multiplying the acre-feet of water
34 produced by the applicable rate.

35 (c) The district may impose an annual administrative charge on
36 a water-producing facility for which no production has been
37 recorded but which has not been permanently abandoned, provided
38 the charge does not exceed the annual cost to the district of
39 maintaining and administering the registration of that facility.

(d) If any owner or operator of a water-producing facility fails to pay the groundwater management charge when due, the district shall charge interest at the rate of 1 percent each month on the delinquent amount of the groundwater management charge.

(e) The board may adopt regulations to provide that in excusable or justifiable circumstances the penalty may be reduced or waived.

100130. (a) If any owner or operator of a water-producing facility fails to register a water-producing facility, or fails to file a water production statement if required by Section 100121, the district, in addition to charging interest, shall assess an administrative charge to recover the costs of collection, and a penalty charge against the owner or operator in an amount of 10 percent of the amount found by the district to be due.

(b) The board may adopt regulations to provide that in excusable or justifiable circumstances the penalty may be reduced or waived.

100131. (a) Upon good cause shown, an amended statement of water production may be filed or a correction of the records may be made at any time within one year of filing the water production statement.

(b) If, pursuant to Section 100129, the owner or operator has been notified of a determination by the district that the production of water from the water-producing facility is in excess of that disclosed by the sworn statement covering the water-producing facility, and the owner or operator fails to protest the determination in the manner and in the time set forth in this part, the owner or operator shall be precluded from demonstrating good cause as provided in subdivision (a).

CHAPTER 8. PROPERTY

100140. The district has the right-of-way for the location, construction, and maintenance of water utility and flood protection facilities, and water resources stewardship facilities in, over, and across public lands of the state, not otherwise disposed of or in use. The right-of-way granted is limited to the length and width necessary for the construction and protection of those facilities. If the selection of a right-of-way is made by the district, it shall transmit to the State Lands Commission, the Controller, and the recorder of the county in which the selected lands are situated, a duly verified plat of the lands so selected, giving the extent and

1 the uses for which the same is claimed or desired. If the State Lands
2 Commission approves the selection, it shall endorse its approval
3 upon the plat and issue the district a permit to use the right-of-way
4 and lands.

5 100141. The legal title to all property acquired under this part
6 immediately and by operation of law vests in the district, and shall
7 be held by the district, in trust, for the uses and purposes set forth
8 in this part.

9 100142. (a) The board, by resolution, may determine that any
10 real property or interest in real property is no longer necessary to
11 be retained for district uses or purposes. The district may thereafter
12 sell, lease, or otherwise dispose of the property, including, but not
13 limited to, the following types of property:

14 (1) Real property that, in the determination of the board, has no
15 access to a public road.

16 (2) An easement for ingress and egress to property that, by the
17 terms of the easement, terminates when ingress and egress is
18 supplied to the property by a public road.

19 (b) (1) The board may reconvey surplus real property to the
20 former owner from whom the property was obtained or condemned,
21 or to the owner's successor in interest, for fair market value. Fair
22 market value shall be determined by a qualified real estate
23 appraiser.

24 (2) The district may reconvey real property to the former owner,
25 or successor in interest, for less than fair market value only if the
26 board finds that a public purpose exists justifying reconveyance
27 for less than fair market value, or as authorized by state law.

28 (c) The board, by resolution, may exchange real property of
29 equal value with any person for the purpose of removing defects
30 in the title to real property owned by the district or where the real
31 property to be exchanged is not required for district use and the
32 property to be acquired is required for district use.

33 (d) The board, by resolution, may adopt a procedure for the
34 leasing of real property owned by the district.

35 (e) The board may sell, lease, or otherwise transfer to the state,
36 county, or to any city, school district, or other special district within
37 the district, or exchange with the public entity, any real or personal
38 property or interest in that property belonging to the district upon
39 agreed terms and conditions.

(f) Under circumstances not specifically prescribed by this part, the requirements of law regarding the disposition of real property applicable to counties shall govern the district.

100143. The board shall adopt regulations for the exchange, sale, or other disposition of district personal property no longer necessary to be retained for district uses or purposes. Any sale of personal property that constitutes a “fixed asset,” shall only be made upon public bid. Notice of the district’s intended action shall first be given as prescribed in Section 25363 of the Government Code.

CHAPTER 9. PLANNING AND APPROVAL OF CAPITAL PROJECTS

100150. It is the intent of this chapter to ensure that the public is informed about proposed capital projects and their funding sources, that broad environmental considerations are included at the earliest possible phase of planning, and that adequate opportunities are afforded the public to participate in the decisionmaking process.

100151. (a) If the board of directors determines that a capital project is feasible, useful, or necessary to carry out the purposes or provisions of this part, it shall initiate the project consistent with this part.

(b) The board may receive or request planning study reports or additional information, including the filing of amended or supplemental reports, in order to have sufficient information to provide ongoing direction regarding analysis of a project.

(c) The board shall determine which projects or works of improvement shall be carried out and shall determine, as to each project or work of improvement, that it is one of the following:

(1) For the common benefit of the district as a whole.

(2) For the common benefit of two or more but less than all zones.

(3) For the benefit of a single zone.

100152. (a) An engineer’s report shall be filed with the board for consideration at a public hearing if the project is funded partially or fully by a single zone, or two or more but less than all zones of benefit, rather than by a districtwide funding mechanism.

(b) The engineer’s report shall include all of the following:

(1) A determination of zone of benefit and sources of funding.

1 (2) A general description of the project.

2 (3) A general description of the lands, rights-of-way, easements,
3 and property proposed to be taken, acquired, or injured in carrying
4 out the project.

5 (4) A map that shows the location and zone of benefit of the
6 project and includes a visual depiction of the information required
7 in paragraph (3).

8 (5) An estimate of the cost of the project, including both of the
9 following:

10 (A) The cost of lands, rights-of-way, easements, and property
11 proposed to be taken, acquired, or injured in carrying out the
12 project.

13 (B) All incidental expenses likely to be incurred, including legal,
14 clerical, engineering, superintendence, inspection, printing, and
15 advertising.

16 (c) The board shall set and hold a public hearing to receive
17 comments from the public on a project's engineer's report, as
18 follows:

19 (1) The time and place for the public hearing where the board
20 will consider all comments on the engineer's report shall be
21 noticed. Notice of the public hearing shall be communicated in a
22 manner designed to provide the concerned public with notice and
23 shall also comply with the applicable provisions set forth in the
24 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
25 of Part 1 of Division 2 of Title 5 of the Government Code) or any
26 other applicable requirements.

27 (2) At the time and place fixed for the hearing, or at any time
28 to which the hearing is continued, the board shall consider all
29 written and oral comments regarding the project's engineer's report.

30 (3) If, prior to the conclusion of the hearing on the engineer's
31 report, written protests against the proposed project signed by more
32 than one-third of the registered voters residing within the affected
33 zone are filed with the board, the board may in its discretion either
34 abandon the project or suspend further proceedings on the proposed
35 project for at least one year.

36 100153. The completed planning study report, including
37 amended or supplemental reports, if any, an engineer's report, if
38 applicable, and the board's independent review and determination
39 that the project's environmental documentation is adequate and
40 complies with the California Environmental Quality Act (Division

1 13 (commencing with Section 21000) of the Public Resources
2 Code) are prerequisites to board approval of a project.

3
4 CHAPTER 10. ENFORCEMENT
5

6 100160. (a) If the district has probable cause to believe that
7 the production of water from a water-producing facility is in excess
8 of that disclosed by the sworn statements covering that
9 water-producing facility, or if no statement is filed covering a
10 water-producing facility, the district may conduct an investigation
11 and report its conclusions.

12 (b) Based on the information acquired in the investigation, the
13 district may establish the amount of water production from any
14 water-producing facility at an amount not to exceed its maximum
15 production capacity. If a water-measuring device is permanently
16 attached, its record of production is rebuttably presumed to be
17 accurate.

18 (c) After a determination has been made by the district, the
19 district shall mail a written notice of the determination to the person
20 operating the water-producing facility at the address shown in the
21 district's records. The determination made by the district is
22 conclusive as to all persons. The groundwater management charge,
23 and the interest and penalties, are immediately due and payable,
24 unless a protest is filed with the board within 15 days after the
25 mailing of the notice. Notice is complete at the time of deposit in
26 the mail, with first-class postage affixed.

27 (d) Upon the timely filing of a written protest setting forth the
28 grounds for protesting the determination of the district, the board,
29 or its designee, shall set a hearing date. Notice shall be mailed to
30 the protestant at least 10 days before the date fixed for the hearing.
31 The protestant shall have an opportunity to be heard at the hearing.
32 The district shall determine the total amount of the water
33 production and the groundwater management charge based upon
34 substantial evidence. If the water production statement was filed
35 and the amount disclosed was paid within the time required by
36 this part, and the district finds that the failure to report the amount
37 of water actually produced resulted from excusable or justifiable
38 circumstances, interest on the amount found to be due may be
39 waived. Notice of the determination by the board, or its designee,
40 shall be mailed to each protestant. Payment of the groundwater

1 management charge, and interest or penalties finally determined
2 to be due shall be made within 20 days from the date of mailing
3 of the notice of determination.

4 100161. The district shall maintain, and annually update,
5 records with regard to water production and the imposition of
6 groundwater management charges within the district. The records
7 shall include a general description of the property upon which each
8 water-producing facility is located, an identifying number or code
9 assigned to each facility, the annual water production from each
10 water-producing facility, and the groundwater management charge
11 imposed and collected at each rate.

12 100162. (a) The district may commence and prosecute
13 injunctive relief actions in superior court against an owner or
14 operator of a water-producing facility for failure to adhere to any
15 of the requirements of this part, including requirements relating
16 to the registration of a water-producing facility with the district,
17 or the timely payment of groundwater management charges.

18 (b) The court may issue and grant an injunction restraining and
19 prohibiting the named defendant from the operation of any
20 water-producing facility if it is established that the defendant has
21 failed to register the water-producing facility with the district, or
22 that the defendant is delinquent in payment of groundwater
23 management charges.

24 (c) The right to proceed for injunctive relief granted in this
25 section is an additional remedy to others provided elsewhere in
26 this part or otherwise allowed by law. Except as otherwise provided
27 by this part, Chapter 3 (commencing with Section 525) of Title 7
28 of Part 2 of the Code of Civil Procedure governs injunctive relief
29 actions described in this section. The district shall not be required
30 to provide an undertaking or bond as a condition to granting
31 injunctive relief.

32 100163. The district may bring a suit in the court having
33 jurisdiction against any operator of a water-producing facility
34 within the district for the collection of any delinquent groundwater
35 management charge. The court, in addition to allowing recovery
36 of costs as allowed by law, may fix and allow as part of the
37 judgment interest and penalties as provided in this part. If the
38 district, as a provisional remedy in bringing the suit, seeks an
39 attachment against the property of any defendant named in the

1 action, the district shall not be required to provide a bond or
2 undertaking.

3 100164. (a) It is unlawful to produce water from any
4 water-producing facility required to be registered in accordance
5 with this part if that water-producing facility has not been so
6 registered, and, if required by the board, the facility does not have
7 a water-measuring device affixed to the facility capable of
8 registering the accumulated amount of water produced.

9 (b) Violation of this provision is a misdemeanor, punishable by
10 a fine not to exceed five hundred dollars (\$500), or imprisonment
11 in the county jail not to exceed six months, or by both the fine and
12 imprisonment. Each day of operation in violation shall constitute
13 a separate offense.

14 100165. Any person who injures, alters, removes, resets,
15 adjusts, manipulates, obstructs, or in any manner interferes or
16 tampers with, or procures or causes or directs any person to injure,
17 alter, remove, reset, adjust, manipulate, obstruct, or in any manner
18 interfere or tamper with any water-measuring device affixed to
19 any water-producing facility as required by this part, that causes
20 the water-measuring device to improperly or inaccurately measure
21 and record water production, or any person who willfully does not
22 submit a water production statement to the district in accordance
23 with this part, or any person who willfully removes or breaks a
24 seal attached to an abandoned water-producing facility, or any
25 person who with intent to evade any requirement of this part files
26 with the district any false or fraudulent water production statement
27 is guilty of a misdemeanor and is punishable by a fine not to exceed
28 five hundred dollars (\$500), or imprisonment in the county jail not
29 to exceed six months, or by both fine and imprisonment.

30 100166. In implementing the enforcement of this part relating
31 to groundwater management charges, the district, in addition to
32 the powers specified elsewhere in this part, may take any of the
33 following actions:

34 (a) Install and maintain water-measuring devices, and other
35 devices that will aid in determining accurate water production, on
36 water-producing facilities not owned by the district.

37 (b) Affix seals to water-producing facilities that the owner or
38 operator has declared to be abandoned, or are in fact permanently
39 abandoned.

1 (c) After giving notice, enter onto any land for the purposes
2 enumerated in this section and for the purpose of making
3 investigations relating to water production.

4 100167. (a) Any abandoned or unused water well, or other
5 well, or other circumstance endangering the public health and
6 safety by creating a water contamination hazard, is a public
7 nuisance.

8 (b) If the district determines that a public nuisance exists, and
9 must be abated, the district, by certified mail, shall notify the
10 current record owner of the property of the need to abate the public
11 nuisance and that it is the intention of the district to record a notice
12 of violation of the ordinance.

13 (c) The notice to the owner shall describe the violation and
14 specify a time, date, and place for a hearing, at which the owner
15 may present evidence to the board that a public nuisance does not
16 actually exist and that the notice should not be recorded. The notice
17 to the owner shall state that, unless the public nuisance is abated
18 within the time specified by the board following the hearing, the
19 district may abate the public nuisance and the costs of the
20 abatement will be assessed against the property.

21 (d) The hearing shall take place no sooner than 30 days and no
22 later than 60 days from date of mailing of the notice.

23 (e) If, within 15 days of receipt of the notice, the owner of the
24 real property fails to inform the district of his or her objection to
25 recording the notice of violation, the board may record the notice
26 of violation with the county recorder.

27 (f) If, after hearing, it is determined that there has been no
28 violation, the district shall mail a clearance letter to the then current
29 owner of record. If, after the hearing, the board determines that a
30 violation has in fact occurred, the board shall record the notice of
31 violation with the county recorder.

32 (g) The notice of violation, when recorded, is constructive notice
33 of the violation to all successors in interest in the property.

34 (h) If the board determines, at the conclusion of the hearing,
35 that a public nuisance actually exists, the board may order the
36 property owner to abate the public nuisance within a specified
37 time.

38 (i) If the public nuisance is not abated within the time specified
39 in the order of the board following a hearing, the district may abate
40 the public nuisance. Any entry upon private property by the district

1 for this purpose shall be preceded by written notice to the owner
2 by certified mail stating the date and place of entry, the purpose,
3 and the number of persons entering. If the mailed notice is returned
4 undelivered, the district may provide notice by posting a copy of
5 the notice at the proposed entry point five days prior to entry.

6 (j) Any costs incurred by the district in abating a public nuisance
7 pursuant to this section are a lien upon the property upon which
8 the public nuisance existed when notice of the lien is filed and
9 recorded.

10 (k) The district shall record notice of the lien, particularly
11 identifying the property on which the nuisance was abated and the
12 amount of the lien, and naming the owner of record of the property,
13 in the office of the Santa Clara County Recorder within one year
14 after the first item of expenditures by the district or within 90 days
15 after the completion of the work, whichever occurs first. Upon
16 recordation of the notice of lien, the lien has the same force, effect,
17 and priority as a judgment lien, except that it attaches only to the
18 property described in the notice, and continues for 10 years from
19 the date of recording of the notice unless sooner released or
20 otherwise discharged.

21 SEC. 4. The provisions of this act are severable. If any
22 provision of this act or its application is held invalid, that invalidity
23 shall not affect other provisions or applications that can be given
24 effect without the invalid provision or application.

25 SEC. 5. The Legislature finds and declares that a special law
26 is necessary and that a general law cannot be made applicable
27 within the meaning of Section 16 of Article IV of the California
28 Constitution because of the unique and special surface water,
29 groundwater, and floodwater problems in the area included in the
30 Santa Clara Valley Water District.

31 SEC. 6. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 costs that may be incurred by a local agency or school district are
34 the result of a program for which legislative authority was
35 requested by that local agency or school district, within the
36 meaning of Section 17556 of the Government Code and Section
37 6 of Article XIII B of the California Constitution, or because costs
38 that may be incurred by a local agency or school district will be
39 incurred because this act creates a new crime or infraction,
40 eliminates a crime or infraction, or changes the penalty for a crime

1 or infraction, within the meaning of Section 17556 of the
2 Government Code, or changes the definition of a crime within the
3 meaning of Section 6 of Article XIII B of the California
4 Constitution.

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